

## NOTICE OF INTENT

Department of Environmental Quality  
Office of Water Resources  
Water Pollution Control Division

Under the authority of the Louisiana Environmental Quality Act, La. R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Pollution Control Division regulations, LAC 33:IX.Chapter 23 (Log #WP025).

The proposed rule makes corrections to erroneous citations. Additionally, reference to EPA regional administrator has been changed to reflect state authority in the definition of "new discharger." Language has also been deleted at LAC 33:IX.2407.C that applies to EPA only.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on September 25, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP025. Such comments must be received no later than October 2, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Post Office Box 82282, Baton Rouge, LA 70884 or to fax number (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. You may contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP025.

This proposed regulation is available for inspection at the following DEQ office locations from 8:00 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, 4th floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508. This regulation is also available on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy  
Assistant Secretary

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality Regulations**

**Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**

**Subchapter A. Definitions and General Program Requirements**

**§2311. Purpose and Scope**

Scope of the LPDES Permit Requirement.

\* \* \*

[See Prior Text in A.1 - 3]

4. The state administrative authority may designate any person subject to the standards for sewage sludge use and disposal as a treatment works treating domestic sewage as defined in LAC 33:IX. ~~2311~~2313, where he or she finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA section 405(d). Any person designated as a treatment works treating domestic sewage shall submit an application for a permit under LAC 33:IX.2331 within 180 days of being notified by the state administrative authority that a permit is required. The state administrative authority's decision to designate a person as a treatment works treating domestic sewage under this Paragraph shall be stated in the fact sheet or statement of basis for the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR\*\*.

**§2313. Definitions**

The following definitions apply to LAC 33:IX.Chapter 23.Subchapters A-G. Terms not defined in this Section have the meaning given by the CWA. When a defined term appears in a definition, the defined term is sometimes placed in quotation marks as an aid to readers.

\* \* \*

[See Prior Text]

*New Discharger*—any building, structure, facility, or installation:

\* \* \*

[See Prior Text in (a) - (c)]

(d). which has never received a finally effective permit for discharges at that site. This definition includes an indirect discharger which commences discharging into waters of the state after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or

aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a site under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the EPA regional administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the ~~EPA regional administrator~~ state administrative authority shall consider the factors specified in ~~40 CFR 125.122(a)(1)-(10)~~ LAC 33:IX.2749.A.1-10. An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a new discharger only for the duration of its discharge in an area of biological concern.

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:722 (June 1997), LR\*\*.

#### **§2321. Continuation of Expiring Permits**

~~LPDES permits.~~ A. When DEQ is the permit-issuing authority, the conditions of an expired permit continue in force under R.S. 30:2023(C), R.S. 49:961(B), and LAC 33:IX.2301.D.4 until the effective date of a new permit (see LAC 33:IX.2425) if:

\* \* \*

[See Prior Text in A.1 - C.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR\*\*.

#### **Subchapter C. Permit Conditions**

#### **§2361. Establishing Limitations, Standards, and Other Permit Conditions**

In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.

\* \* \*

[See Prior Text in A - I.1.b]

c. Other measurements as appropriate including pollutants in internal waste streams under LAC 33:IX.2363. ~~TH~~, pollutants in intake water for net limitations under LAC 33:IX.2363. ~~FG~~; frequency, rate of discharge, etc., for noncontinuous discharges under LAC 33:IX.2363.E; pollutants subject to notification requirements under LAC 33:IX.2357.A; and pollutants in sewage sludge or other monitoring as specified in 40 CFR part 503; or as determined to be necessary on a case-by-case basis pursuant to section 405(d) of the CWA.

\* \* \*

[See Prior Text in I.1.d - Q]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR\*\*.

#### **Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits**

##### **§2383. Modification or Revocation and Reissuance of Permits**

When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407. ~~EB~~ and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407. ~~EB.2~~). If cause does not exist under this Section or LAC 33:IX.2385, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in ~~40 CFR part 124 (or procedures of an approved state program)~~ LAC 33:IX.Chapter 23.Subchapters E and F followed.

\* \* \*

[See Prior Text in A - B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR\*\*.

#### **Subchapter E. General Program Requirements**

##### **§2407. Modification, Revocation and Reissuance, or Termination of Permits**

\* \* \*

[See Prior Text in A - B.3]

C. If the state administrative authority tentatively decides to terminate a permit under LAC 33:IX.2387 or 2769, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under LAC 33:IX.2409. ~~In the case of EPA-issued permits, a notice of intent to~~

~~terminate shall not be issued if the EPA regional administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved state under 40 CFR 123.24(b)(1) (NPDES), or 501.14(b)(1) (Sludge).~~

\* \* \*

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:725 (June 1997), LR\*\*.

**Subchapter K. Criteria and Standards for Determining Fundamentally Different Factors Under Sections 301(b)(1)(A), 301(b)(2)(A) and (E) of the Act**

**§2503. Criteria**

\* \* \*

[See Prior Text in A - C.2.b]

D. Factors which may be considered fundamentally different are:

1. the nature or quality of pollutants contained in the raw waste load of the applicant's process wastewater;

[Comment: (1). In determining whether factors concerning the discharger are fundamentally different, EPA will consider, where relevant, the applicable development document for the national limits, associated technical and economic data collected for use in developing each respective national limit, records of legal proceedings, and written and printed documentation including records of communication, etc., relevant to the development of respective national limits which are kept on public file by EPA. (2). Waste stream(s) associated with a discharger's process wastewater which were not considered in the development of the national limits will not ordinarily be treated as fundamentally different under LAC 33:IX.2503.A. Instead, national limits should be applied to the other streams, and the unique stream(s) should be subject to limitations based on section 402(a)(1) of the Act. See LAC 33:IX.246 79.C.2.]

\* \* \*

[See Prior Text in D.2 - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR\*\*.